

Message Text

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ACTION STR-07

INFO OCT-01 ARA-10 EUR-12 EA-10 NEA-10 IO-13 ISO-00
STRE-00 AF-10 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01 DOE-15
OIC-02 /168 W
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P 141939Z JUL 78
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 2107
INFO ALL EC CAPITALS
AMEMBASSY BERN
AMEMBASSY BRASILIA
AMEMBASSY CANBERRA
AMEMBASSY HELSINKI
AMCONSUL HONG KONG
AMEMBASSY MEXICO
AMEMBASSY NEW DELHI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO
AMEMBASSY SEOUL
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO

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E.O. 11652, N/A
TAGS: ETRD, MTN
SUBJECT: SAFEGUARDS GROUP MEETING, JULY 6-7

REF: GENEVA 10226

1. GROUP SAFEGUARDS MET JULY 6-7 TO REVIEW VARIOUS WORK-

ING DOCUMENTS NOW ON TABLE: FULL TEXT OF SAFEGUARDS CODE PREPARED BY 7 DC DELS (SG/W/39) PLUS NORDIC AMENDMENT THERETO (SG/W/40); LDC POSITION PAPER FROM FEBRUARY, 1978 (INF/17) ALONG WITH THEIR NEW "ANTI-SELECTIVITY" SECTION (INF/17, ADD. 1). PRESENT WERE APPROXIMATELY 40 DELS. DESPITE LDC EFFORTS TO HIGHLIGHT INF/17, DISCUSSION FOCUSED ALMOST EXCLUSIVELY ON W/39, WHICH WAS COVERED CHAPTER BY CHAPTER. LDC CONDUCT WAS DISCIPLINED AND WELL PLANNED, INITIAL POSTURING TAPERED OFF DURING MEETING, AND ATMOSPHERE DECIDEDLY BUSINESSLIKE. BRAZIL, PAKISTAN, AND PARTICULARLY INDIA (KUMAR) DID MOST OF THE TALKING FOR LDCS.

2. GENERAL PROVISION. LDCS PROPOSED INCORPORATING INF/17 PROVISIONS STRESSING NEED FOR "ADJUSTMENT" IN LIEU OF SAFEGUARDS (PARAS. 2.1 AND 2.2) INTO "OPERATIVE SECTIONS" OF W/39. IN RESPONSE, U.S. (HARTZELL), JAPAN (NOGAMI) AND EC (ABBOTT) EACH SAID THOUGH SOME MENTION OF SUBJECT IN PREAMBULAR SECTION MIGHT BE POSSIBLE, EXPLICIT LINKAGE OF ADJUSTMENT ASSISTANCE AND SAFEGUARD MEASURES NOT IN THE CARDS. PAKISTAN AGAIN ARGUED THAT CODE SHOULD REPLACE ALL OTHER INSTRUMENTS (E.G., MFA)--A POINT PICKED UP BY POLAND AND ROMANIA WHO URGED THAT PROTOCOLS OF ACCESSION (WHICH FOR THEM CONTAIN DISCRIMINATORY SAFEGUARD CLAUSES) ALSO BE SUPERSEDED BY CODE. U.S. AND EC STRESSED THAT CODE DESIGNED TO LEAVE SUCH ARRANGEMENT LIMITED OFFICIAL USE

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MENTS IN PLACE WITHOUT PREJUDICING RIGHTS/OBLIGATIONS THEY PROVIDE.

3. CHAPTER 1, CRITERIA FOR INVOCATION. INDIA, BRAZIL (BARTHEL-ROSA) NOTED CONCERN OVER W/39 PROVISION ON INJURY THROUGH "RELATIVE INCREASES" IN IMPORTS, SAID INCREASES MUST BE ABSOLUTE TO BE ACTIONABLE; CANADA (WEEKES), U.S. POINTED TO ART. XIX INTERPRETATIVE HISTORY RECOGNIZING RELATIVE INCREASES AS LEGITIMATE BASIS. LDCS URGED DELETION OF INJURY CHECKLIST FACTORS "MARKET SIZE", "MARKET SHARE", "PRICES", AND "WAGES" ON GROUNDS OF IRRELEVANCY TO STATE OF HEALTH OF INDUSTRY AND OVER FEAR FACTORS MIGHT BE USED TO FORM JUDGMENTS ON INDUSTRY IN EXPORTING COUNTRIES. FINALLY INDIA SUPPORTED IMPORT-INJURY THRESHOLD OF "PRINCIPAL CAUSE" BUT DID NOT PRESS MATTER, NOR DID DCS. U.S. SAID IF "PRINCIPAL CAUSE" ADOPTED, THIS WOULD LIKELY ASSURE NON-ACCEPTABILITY OF CODE TO U.S. CONGRESS.

4. DISCUSSION UNDER CHAPTER 2, CONDITIONS, CENTERED ON TIME LIMITS FOR SAFEGUARD ACTION. EC FLOATED IDEA RAISED EARLIER IN DC DRAFTING GROUP OF SHORT INITIAL PERIOD

(12-24 MONTHS), WITH EXTENSIONS SUBJECT TO INTERNATIONAL REVIEW; THIS DREW LITTLE LDC COMMENT OTHER THAN GENERAL OBSERVATION THAT ALL SAFEGUARD MEASURES BE TIME BOUND WITH MAXIMUM PERIOD OF VALIDITY STIPULATED AT OUTSET. ON CHAPTER 3, RESPONSE TO SAFEGUARD MEASURES, LDCS GENERALLY THOUGHT RIGHT TO RETALIATION SHOULD BE HELD OPEN THOUGH, AS BRAZIL NOTED, "JUST HOW OPEN IS ANOTHER QUESTION." LDCS FOUND "VERY ATTRACTIVE" PORTION OF CANADIAN ALTERNATIVE WHEREIN RETALIATION BASED ON DAMAGE CAUSED TO EXPORTER RATHER THAN ON TRADE COVERAGE OF SAFEGUARD MEASURE; THEY STRESSED NEED FOR A COMPENSATION PROVISION.

5. LDC REACTIONS TO CHAPTER 4, NATURE OF SAFEGUARD ACTION, REMAINED VERY GENERAL DESPITE U.S. REQUEST FOR SPECIFIC LIMITED OFFICIAL USE

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COMMENTS ON TEXT WHICH, WE NOTED, OFFERED THROUGH VARIOUS
BRACKETS, ETC. SEVERAL VERY DIFFERENT APPROACHES TO
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SELECTIVITY. PRINCIPAL LDC REACTION CAME FROM INDIA.
SAYING SELECTIVITY "LOADS DICE AGAINST LDCS", KUMAR
HAMMERED THEMES THAT NO ECONOMIC OR LEGAL JUSTIFICATION
HAD YET BEEN OFFERED FOR SELECTIVITY AND THAT DISTINGUISH-
ING BETWEEN INJURIOUS AND NON-INJURIOUS IMPORT SOURCES
WOULD BE IMPOSSIBLE. THOUGH ONLY ONE LDC, ARGENTINA, WENT
AS FAR AS REJECTING SELECTIVITY CATEGORICALLY, LDC
SUPPORT WAS UNANIMOUS FOR THEIR OWN TEXT (ALL ACTIONS TO
BE MFN, EXCEPT THAT LDC SMALL SUPPLIERS/NEW ENTRANTS TO
BE EXCLUDED AND NO ACTION TO BE TAKEN ON PRODUCTS OF
INTEREST TO LDCS). NORDIC DEL COUNTERED WITH STRONG
DEFENSE OF SELECTIVITY BASED ON EQUITY OF STRICTLY
LIMITING ACTION TO INJURIOUS IMPORTS; REGARDING LDC
APPREHENSION THEY WOULD BE SOLE TARGET OF SELECTIVE
ACTION NORDIC REP (EKBLOM) ADMITTED THAT "SUDDEN AND
QUANTITATIVELY ALARMING INCREASES IN IMPORTS PARTICULARLY
FROM SOME MORE ADVANCED DEVELOPING COUNTRIES HAVE IN
RECENT YEARS" RAISED PRESSURE FOR SAFEGUARD ACTION BUT
SELECTIVITY WOULD PERMIT MINIMUM DISRUPTION OF TRADE
INCLUDING FROM LDCS. EC URGED LDCS TO SET ASIDE DEBATE
ON "PRINCIPLES" AND CONSIDER SELECTIVITY WITHIN CONTEXT
OF OVERALL INCREASE IN GENERAL LEVEL OF DISCIPLINE WHICH
CODE PROVIDES. NORDICS AND EC BOTH NOTED TASK OF SORTING
OUT INJURIOUS IMPORT SOURCES WOULD BE DIFFICULT, AND THAT
DOUBTS WOULD HAVE TO BE RESOLVED IN FAVOR OF MFN ACTION.
ON GROUNDS JAPANESE POSITION ON SELECTIVITY NOW BEING
REASSESSED IN TOKYO JAPAN DEL REMAINED SILENT. (FYI:
NOGAMI PRIVATELY EXPLAINED THIS AS TACTICAL PULLBACK
GIVEN STATE OF JAPAN-EC DISCUSSIONS ON DISCRIMINATORY QRS.)
DELS OFFERED NO COMMENT ON CHAPTER 4 BIS, USE OF EXPORT
RESTRAINTS, THOUGH HONG KONG REP LATER SAID PRIVATELY
THAT SILENCE HAD BEEN INTENTIONAL LDC SIGNAL THAT VRA/OMA
APPROACH TO SELECTIVITY COULD BE NEGOTIABLE.

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6. CHAPTER 5 (NOTIFICATION AND CONSULTATION) AND CHAPTER 6 (SURVEILLANCE/DISPUTE SETTLEMENT) DREW RELATIVELY LITTLE DISCUSSION AS LDCS EXPRESSED RELUCTANCE TO DISCUSS DETAILS BEFORE SHAPE OF OTHER CODE SECTIONS (READ SELECTIVITY) ARE SETTLED. INDIA SUPPORTED U.S.-SPONSORED PROVISIONS ON THIRD-PARTY CONSULTATION RIGHTS AND LDCS GENERALLY FAVORED IDEA OF SMALL STANDING SUB-COMMITTEE TO PERFORM CONSULTATION, SURVEILLANCE, DISPUTE MANAGEMENT FUNCTIONS ON 'AUTOMATIC' CONTINUING BASIS; U.S. AND EC SAID NEED FOR SUB-COMMITTEE WOULD ULTIMATELY DEPEND ON NUMBER OF SIGNATORIES IN CODE, AND THAT CONSULTATIONS, ETC. SHOULD BE ON REQUEST, NOT AUTOMATIC. ONLY COMMENT ON CHAPTER 7, DOMESTIC PROCEDURES, WAS JAPANESE OBSERVATION THAT THERE WAS MUCH OVERLAP IN ALTERNATIVE SECTIONS (U.S. AND JAPAN) AND THAT MERGING THEM SHOULD NOT BE A PROBLEM. LDCS GAVE LUKEWARM APPROVAL TO FIRST PARA. OF CHAPTER 8 (DEVELOPING COUNTRIES) ON S&D BUT CALLED GRADUATION PARA. UNACCEPTABLE. NO SUBSTANTIAL COMMENT ON CHAPTER 9, OTHER PROVISIONS.

7. GROUP AGREED THAT DELS WOULD CONTINUE INFORMAL CONSULTATIONS.

8. DRAFTED BY ADDUCI CULBERT

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